

# Honolulu Star-Bulletin

Aug. 31, 1985

## Legal Feud Heats Up Rewald Trial

*Tension Peaks Between Judge and Defense Counsel*

By Charles Memminger  
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The tension between attorneys and the judge in the Ronald Rewald fraud trial peaked yesterday with federal Public Defender Michael Levine making an emotional plea to be released from the case and his deputy breaking down in tears.

U.S. Judge Harold Fong recessed the trial early in the afternoon to allow the attorneys time to "settle down."

Tension between government attorneys, Rewald's attorneys and the judge has been building up throughout the trial. It nearly reached its peak on Thursday when Fong ordered Levine and Brian Tamanaha to explain why they should not be held in contempt of court for allegedly engaging in unethical conduct.

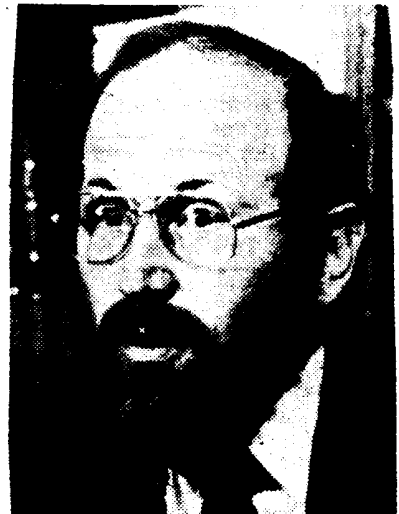
That stemmed from an incident in which the defense team had a CIA agent sign the back of a subpoena in order to get a copy of his signature. Fong had earlier ruled that the man did not have to provide a handwriting sample and charged that Levine's action violated the spirit of his ruling.

Fong said another judge would decide after the Rewald trial whether Tamanaha and Levine were in contempt of court.

For Tamanaha, a 27-year-old lawyer participating in his first criminal trial, the judge's action was a blow. Tamanaha had amazed veteran court watchers and attorneys with his composure and courtroom manner throughout the opening weeks of the trial.

THE THURSDAY contempt ruling followed a previous warning by the judge that Tamanaha might be fined after the trial for filing a supposedly "frivolous" motion.

Yesterday, the trial seemed to progress smoothly, beginning with the questioning of Shane Diamond Emerald — a woman who said Rewald paid her to have sex — and then of retired Air Force Lt. Gen. Arnold Braswell.



Michael Levine  
Says judge hostile to defense

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But during the questioning of CIA officer Mitchell Lawrence, attorneys went to the bench on a routine motion to be heard out of earshot of the jury. According to Levine, Tamanaha thought the bench conference was over and turned to leave. Judge Fong, thinking that Tamanaha was turning his back on the court, stormed, "That's contemptuous conduct," according to Levine.

Back at the counsel tables, the government attorney continued to question Lawrence while Tamanaha turned away from the jury quietly holding back tears.

After the jury was released for lunch, Levine stood up and emotionally addressed the court, asking for a mistrial and that the defense team be released from representing Rewald.

It was Levine's third request to be relieved as Rewald's counsel, saying that the defense was being ineffective.

LEVINE CHARGED that Fong had shown "hostility and disdain" for the defense attorneys, especially by challenging Tamanaha's ethics twice in two days.

He said Fong had "humiliated Mr. Tamanaha, humiliated me and my investigator in public." He also said that Tamanaha had asked to be taken off the case.

He described Tamanaha as a "brilliant" attorney, although somewhat inexperienced, who has been doing his best on a complex case.

"The trial cannot continue with present counsel," Levine concluded.

Fong stood up, glared across the large koa-wood-paneled courtroom and said the record of what happened at the bench conference would speak for itself. He denied Levine's motions for mistrial and removal as counsel before briskly leaving the bench.

After lunch, Tamanaha apologized to the court for losing his composure.

Fong seemed more conciliatory, saying that he felt the defense attorneys overall have acted in a professional manner.

Fong said he "never questioned, and in fact, stands in praise of the fervor in which the defense team has carried on in this case."

BUT INSTEAD of continuing the trial yesterday afternoon, Fong said, it would resume Wednesday.

"It is in the best interest of justice and Mr. Rewald to have his attorneys take the weekend off to settle down, calm down," Fong said.

Assistant U.S. Attorney John Peyton did not oppose the delay but asked the court to order Levine not to hold news conferences on the courthouse steps, where jurors might overhear him.

Fong did not do so, saying he did not want to "heat up the situation" again. But he later cautioned the jurors not to read or watch any news accounts of the trial.

Levine did hold a news conference afterward, but in his office. He said he was considering leaving the Public Defenders Office because of his personality problems with the chief judge of the district and indicated he still plans to ask Fong to take him off the Rewald trial.